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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,329	09/16/2005	Satoshi Hiranuma	1575.0155PUS1	1359
2292 7590 05/28/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER TRAN, DIEM T				
ART UNIT 3748		PAPER NUMBER		
NOTIFICATION DATE 05/28/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

**Office Action Summary****Application No.**

10/531,329

**Applicant(s)**

HIRANUMA ET AL.

**Examiner**

DIEM TRAN

**Art Unit**

3748

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-5 is/are allowed.
- 6) ☒ Claim(s) 1 and 6-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

This office action is in response to the amendment filed on 2/21/08. In this amendment, claim 1 has been amended and claim 9 has been added. Overall, claims 1-9 are pending in this application.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

***Claims 1, 8, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mikami et al. (US Patent 6,655,133) in view of Araki et al. (US Patent 5,941,066) and Yoshizaki et al. (US Patent 6,634,345).***

Regarding claims 1, 9, Mikami discloses an exhaust gas purifying system for an internal combustion engine, comprising:

an exhaust-after-treatment device disposed in an exhaust system of the internal combustion engine, and including a particulate filter (70) configured to collect particulates from exhaust gas, and an NO<sub>2</sub> generating unit inside the particulate filter (see col. 14, lines 38-46);

a burnt particulate amount calculating unit configured to calculate an amount of burnt particulates on the basis of a temperature of the particulate filter (see Figure 24, col. 16, lines 7-10); and a particulate accumulation amount calculating unit configured to calculate an amount of accumulated particulates on the basis of the calculated amount of discharged particulates and the calculated amount of burnt particulates (see col. 18, lines 35-41); however, fails to disclose

calculating a discharged particulate amount from a map, that stores relationship between an excess air ratio and a corresponding amount of discharged particulates, on the basis of an actual excess air ratio. Araki teaches that a discharged particulate amount from the engine is calculated from a map based on an engine load (see col. 4, lines 31-38), and Zoshizaki teaches that an excess air ratio is calculated from a map based on an engine load (see Figure 10B). It is simply to combine these two teachings to obtain a means to calculate a discharged particulate amount from the engine based on an excess air ratio.

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized the teaching of Araki and Zoshizaki in the Mikami system, since the use thereof would have provided an accurate means to determine an amount of discharged particulate matter in the exhaust gas.

Regarding claim 8, the modified Mikami system discloses all the claimed limitations as discussed in claim 1 above, however, fails to specifically disclose that the excess air ratio is calculated by a formula:

$$\lambda = Q_a / (Q_f \times 14.7)$$

It is well known for one having ordinary skill in the art to realize that the excess air ratio is calculated by a formula  $\lambda = Q_a / (Q_f \times 14.7)$  where,  $\lambda$  is the excess air ratio,  $Q_a$  is the intake air amount, and  $Q_f$  is the fuel injection amount. Therefore, such disclosure by Mikami is notoriously well known in the art so as to be proper for official notice.

*Claims 6, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mikami et al. (US Patent 6,655,133) in view of Araki et al. and Yoshizaki et al. as applied to claim 1 above, and further in view of Schaller (US Patent 7,137,248).*

Regarding claim 6, the modified Mikami system discloses all the claimed limitations as discussed in claim 1 above, however, fails to specifically disclose calculating an amount of burnt particulates on the basis of a fuel burning velocity coefficient, wherein the fuel burning velocity coefficient is obtained from a map based on the temperature of the particulate filter. Schaller teaches that calculating an amount of burnt particulates on the basis of a fuel burning velocity coefficient, wherein the fuel burning velocity coefficient is obtained based on the temperature of the particulate filter (see Figure 2, col. 5, lines 8+).

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized the teaching of Schaller in the modified Mikami system, since the use thereof would have been conventional in the art to accurately determine a rate of soot combustion in the filter.

#### ***Allowable Subject Matter***

Claims 2-5 are allowed.

#### ***Response to Arguments***

Applicant's arguments filed on 2/21/08 have been fully considered but they are moot in view of a new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### *Conclusion*

Any inquiry concerning this communication from the examiner should be directed to Examiner Diem Tran whose telephone number is (571) 272-4866. The examiner can normally be reached on Monday -Friday from 8:00 a.m.- 6:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reached on (571) 272-4859. The fax number for this group is (571)273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about

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the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 800-786-9199 (toll-free).

/Dien Tran/  
Patent Examiner

/Thomas E. Denion/  
Supervisory Patent Examiner, Art Unit 3748